

**BEFORE THE LAND USE HEARINGS OFFICER
OF CITY OF SHERWOOD, OREGON**

Regarding an application by Rothsport Road and Race,)	<u>FINAL ORDER</u>
Inc. for CUP approval to relocate a performance engine)	Case No. CUP 13-01
manufacturing and repair facility to an existing building at)	(Rothsport Road
14015 SW Galbreath Road in the City of Sherwood, Oregon)	and Race, Inc.)

A. SUMMARY

1. The applicant, Rothsport Road and Race, Inc., requests Conditional Use Permit ("CUP") approval to relocate its existing performance engine manufacturing and vehicle repair facility from its existing location to a new facility in an existing 18,859 square foot building on a 1.9-acre parcel located at 14015 SW Galbreath Road; also known as tax lot 500, Section 28BC, Township 2 South, Range 1 West of the Willamette Meridian (the "site"). The site and surrounding properties are zoned LI (Light Industrial). No changes are proposed to the exterior of the existing building. Additional basic facts about the site and surroundings and applicable approval standards are provided in the City of Sherwood Staff Report to the hearings officer dated November 8, 2013 (the "Staff Report") incorporated herein by reference, except to the extent modified by or inconsistent herewith.

2. City of Sherwood Hearings Officer Joe Turner (the "hearings officer") conducted a public hearing about the application. City staff recommended that the hearings officer approve the application subject to conditions of approval in the Staff Report, as modified at the hearing. The applicant accepted those findings and conditions, as modified, with one exception. No one else testified orally or in writing. The only contested issue in this case is whether the applicant's traffic analysis accurately reflects the actual trip generation impacts of the use.

3. Based on the findings and conclusions in this final order, and subject to the conditions of approval listed or incorporated by reference at the conclusion of this final order, the hearings officer approves the application in this case.

B. HEARING AND RECORD HIGHLIGHTS

1. The hearings officer received testimony at the duly noticed public hearing about this application on November 18, 2013. All exhibits and records of testimony are filed at the City of Sherwood Planning Department. The hearings officer announced at the beginning of the continued hearing the rights of persons with an interest in the matter, including the right to request that the hearings officer continue the hearing or hold open the public record, the duty of those persons to testify and to raise all issues to preserve appeal rights and the manner in which the hearing will be conducted. The hearings officer disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the hearings officer of selected testimony and evidence offered at the public hearing.

2. At the hearing, City planner Michelle Miller summarized the Staff Report and the proposed development. She noted that the applicant primarily manufactures, repairs and installs high performance engine parts and specialized engine and transmission upgrades. The applicant also conducts some vehicle repair activities, which requires CUP approval in the LI zone. The proposed development will comply with all applicable approval criteria, subject to the recommended conditions of approval.

3. City engineer Bob Galati noted that the City's Capacity Allocation Program ("CAP") ordinance requires mitigation for new uses that generate eight or more vehicle trips during the P.M. peak hour. Based on the applicant's traffic analysis, the proposed use will generate 13.2 new P.M. peak hour trips. This represents a 0.71-percent increase in the existing P.M. peak hour traffic volume on Tualatin-Sherwood Road. Therefore the applicant should be required to mitigate the traffic impact of the use by paying \$888.00 in mitigation costs. The \$888.00 represents 0.71-percent of the cost of a new traffic signal on Tualatin-Sherwood Road. He requested the hearings officer modify condition of approval B.2 to that effect.

4. Jeff and Lori Gamroth, the owners of Rothsport Road and Race, Inc., testified on behalf of the applicant. They argued that their traffic impact analysis overestimates the number of P.M. peak hour vehicle trips generated by their business. Theirs is a unique, niche, business that does not fall neatly into any of the standard trip generation categories of the Institute of Traffic Engineers trip generation manual. Their business has only six employees and very few customers coming to the site. Therefore the CAP mitigation costs required by the City, which are based on the trip generation estimates, are excessive. They waived the applicant's right to hold the record open to submit a final written argument.

4. The hearings officer closed the record at the end of the hearing and announced his intention to approve the application, subject to the conditions in the Staff Report, as modified at the hearing.

C. DISCUSSION

1. City staff recommended approval of the application, based on affirmative findings and subject to conditions of approval in the Staff Report, as revised at the hearing. The applicant accepted those findings and revised conditions, as amended, with one exception, discussed below.

2. The hearings officer concludes the Staff Report identifies the applicable approval standards in the Sherwood Zoning and Development Code (the "SZDC") for the applications and contains affirmative findings showing that the proposal does or can comply with those standards, provided that the applicant complies with the recommended conditions of approval, as amended at the hearing. The hearings officer adopts the affirmative findings in the Staff Report as his own, except to the extent that they are inconsistent with the following findings and discussion.

3. The applicant argued that their traffic impact analysis overestimates the number of P.M. peak hour vehicle trips generated by their business. Therefore the mitigation costs required by the City, which are based on the trip generation estimates, are excessive. The hearings officer understands the applicant's objections. However the hearings officer finds that the applicant's traffic impact analysis, which was prepared by a professional engineer in consultation with the applicant, provides the best evidence of the future traffic impact of the proposed use. The applicant could have worked with its traffic engineer to provide a more refined analysis of the specific trip generation impacts of their unique use. However they did not do so. Therefore the hearings officer must rely on the trip generation estimates in the applicant's traffic analysis.

4. Based on the trip generation estimates in the applicant's traffic analysis, this use will generate 13.2 new P.M. peak hour trips. This represents a 0.71-percent increase in the existing P.M. peak hour traffic volume on Tualatin-Sherwood Road. Therefore the applicant should be required to mitigate the traffic impact of the use by paying \$888.00 in mitigation costs. The \$888.00 represents 0.71-percent of the cost of a new traffic signal on Tualatin-Sherwood Road. Condition of approval B.2 should be modified to that effect.



DJ CONCLUSION AND ORDER

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves File No. CUP 13-01 (Rothsport Road and Race, Inc.), subject to the following conditions of approval:

CONDITIONS

A. General Conditions

1. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
2. This land use approval shall substantially comply with the submitted preliminary site plans and narrative dated October 18, 2013 prepared by the applicant except as indicated in the following conditions of the Notice of Decision. Additional development or change of use may require a new development application and approval.
3. The developer/owner/applicant is responsible for all costs associated with private/public facility improvements.
4. **This approval is valid for a period of two (2) years from the date of the decision notice.** Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
5. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.

6. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies even if not specifically required by this decision.

B. Prior to Issuance of the Certificate of Final Occupancy:

1. Receive approval from TVF&R that the site development adequately addresses the fire department's requirements including a knox box for access, and fire department access to the equipment.
2. Pay \$888.00 in CAP mitigation costs.
3. Provide the City with a maintenance agreement for the private storm filter and an Operation and Maintenance for the private storm filter.

DATED this 25th day of November 2013.

A handwritten signature in black ink, appearing to read "Joe Turner", written over a horizontal line.

Joe Turner, AICP
City of Sherwood Hearings Officer